

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

LILIA ARIAS AND	)	
MALGORZATA SOROKOSZ,	)	
	)	05 C 5940
Plaintiffs,	)	
	)	Judge Gettleman
v.	)	
	)	
CHICAGO POLICE OFFICER MICHAEL	)	
ALLEGRETTI AND THE CITY OF CHICAGO,	)	
	)	
Defendants.	)	JURY TRIAL DEMANDED

**PLAINTIFF'S RESPONSE TO DEFENDANT CITY OF CHICAGO'S  
LOCAL RULE 56.1(a)(3) STATEMENT OF UNDISPUTED FACTS**

NOW COME Plaintiffs, LILIA ARIAS and MALGORZATA SOROKOSZ through their attorneys, Loevy & Loevy, and responding to Defendant City of Chicago's Local Rule 56.1(a)(3) Statement of Facts as follows:

**I. PARTIES, VENUE, JURISDICTION**

1. Defendant City of Chicago is a municipal corporation and local government as defined by Illinois law. Exhibit A, Plaintiffs' Amended Complaint.

**Response:** Admit.

2. Plaintiff Lilia Arias is a resident of Berwyn, Illinois. Exhibit B, deposition transcript of Lilia Arias ("Arias"), page 5.

**Response:** Admit.

3. Plaintiff Malgorzata Sorokosz is a resident of Chicago, Illinois. Exhibit C, deposition transcript of Malgorzata Sorokosz {"Sorokosz"}, page 5,

**Response:** Admit.

4. Plaintiffs Lilia Arias and Malgorzata Sorokosz have alleged claims against the City of Chicago under 42 U.S.C, § 1983, over which this Honorable Court has jurisdiction. Exhibit A, Plaintiffs' Amended Complaint, ¶¶1, 2.

**Response:** Admit.

5. Plaintiffs have alleged state law claims against the City of Chicago over which this Honorable Court has pendent jurisdiction. Exhibit A, ¶ 2.

**Response:** Admit.

## **II. FACTS RELATING TO THE UNDERLYING INCIDENT**

4. On November 30, 2004, at 7:00 a.m., in the morning, Arias was stopped by defendant Chicago police officer Michael Allegretti on Foster Avenue, in the City of Chicago, Exhibit B, Arias, pages 36 - 37.

**Response:** Admit.

5. Allegretti asked Arias for her insurance and license Exhibit B, Arias, page 41.

**Response:** Admit.

6. Arias produced an expired insurance card. Exhibit B, Arias, page 45.

**Response:** Admit.

7. Allegretti then said, "Flash me." Exhibit B, Arias, page 45.

**Response:** Admit.

8. Allegretti then said, "Follow me," Exhibit B, Arias, page 46.

**Response:** Admit.

9. Allegretti led Arias to an area where she could park her car and instructed her to park her car, Exhibit B, Arias, page 46.

**Response:** Admit.

10. After Arias parked her car, Allegretti instructed her to get into his car and informed Arias that he was taking her to the police station. Exhibit B, Arias, pages 47-48.

**Response:** Admit.

11. Allegretti instructed Arias to get in the back seat. Exhibit B, Arias, page 50.

**Response:** Deny that Allegretti instructed Arias to get in the back seat, but admit that he opened up the back door and Arias did get into the back seat of the police vehicle. *Def. 's Exhibit B at 48, 50.*

12. On the way to the station, Allegretti began to ask Arias questions, such as: her name, where she was coming from, whether she had a boyfriend, whether she had ever dated a white guy, or whether she had ever cheated on her boyfriend. Exhibit B, Arias, pages 52-54.

**Response:** Admit but deny that this statement completely reflects the questions asked by Allegretti in the car. *Def. 's Exhibit B at 52* (he asked where her boyfriend was) *and 53* (he asked repeated questions about if she would cheat on her boyfriend and if she ever had "somebody on the side.").

13. Arias was afraid because she had run a red light. Exhibit B, Arias, pages 53-54.

**Response:** Admit that Arias was in afraid and that her fear was at least in part because she had run a red light. Deny that this statement accurately reflects the complete basis for her fear. *Def. 's Exhibit B at 53-54.*

14. Allegretti told Arias that he would have given her a break if she had flashed him. Exhibit B, Arias, page 54.

**Response:** Admit.

15. Arias asked Allegretti to give her a break. Exhibit B, Arias, page 55.

**Response:** Admit that Arias asked Allegretti to give her a break, but deny to the extent that the statement inaccurately reflects the chronology of the sequence of events. *Def. 's Exhibit B at 54* (Arias asked him to give her a break and in response he said that he would have if she had flashed him).

16. Allegretti got to the station, he got out of the car and opened the back door for Arias, Exhibit B, Arias, page 56.

**Response:** Admit.

17. Inside the station, Allegretti began to write the tickets. Exhibit B, Arias, page 57.

**Response:** Admit.

18. Allegretti told Arias he would give her a break. He wrote tickets for "no license" and for running the red light, but he did not write a ticket for "no insurance." Exhibit B, Arias, pages 64-65.

**Response:** Admit, but deny that it accurately reflects the complete conversation. *Def.'s Exhibit B at 64* (Allegretti told Arias to tell the Judge that she has insurance and that she showed it to him (the officer) during the traffic stop).

19. After Allegretti wrote the tickets, he told her he might not show up for court and if he did not show up then maybe she could come back and find him and do a little dance for him without her underwear Exhibit B, Arias, pages 64-65.

**Response:** Admit that he told her that he might not show up for court and that he told her to come back without underwear "to do a little dance for him." Deny to the extent that this statement mischaracterizes the statements and the timing of the statements. *Def.'s Exhibit B at 65* (Allegretti told her that if he did not show up for court, they might drop the charges against her and that if he did that she should go to the same location the following day to meet him and that she should not wear underwear so that she could do "a little dance" for him) *and 66* (Allegretti said this while he was writing the tickets).

20. Arias said, "No." Exhibit B, Arias, page 65 .

**Response:** Admit.

21. Then Allegretti said to "flash him" right there. Exhibit B, Arias, page 66.

**Response:** Admit.

22. Arias did not get it because there were other people around. Exhibit B, Arias, page 66.

**Response:** Plaintiffs deny and object to the characterization that Arias “did not get it” and that “other people were around.” *Def. 's Exhibit B at 62, 66.* Plaintiffs admit that Arias was surprised that he was saying this in a police station with people outside of the room that they were in. *Id. at 66.* Plaintiff admits that she did not get why he was doing this to her. *Id.*

23. Allegretti asked Arias to open her jacket. Exhibit B, Arias, page 67 .

**Response:** Deny that Allegretti “asked” her to open her jacket, admit that Allegretti told Arias to open her jacket. *Def. 's Exhibit B at 67.*

24. Arias had a sweater underneath her jacket, so she opened her jacket. Exhibit B, Arias, page 67.

**Response:** Admit.

25. After Allegretti wrote the tickets, Arias went to the front of the building and received the paper for court. Exhibit B, Arias, page 67.

**Response:** Admit.

26. On May 24, 2005, around 8:00 a.m., Maigorzata Sorokosz was stopped by Allegretti after she committed a traffic violation. Exhibit C, Sorokosz, pages 64, 68.

**Response:** Admit.

27. Sorokosz made a right turn from Pulaski Street onto Eddy Street which was an illegal right turn at that time of morning. Exhibit C, Sorokosz, page 65.

**Response:** Admit.

28. After making the turn, Sorokosz saw a squad car with blue lights flashing behind her. Exhibit c, Sorokosz, page 69.

**Response:** Admit.

29. Sorokosz pulled over to the side and stopped Exhibit D, Sorokosz, pages 70-71.

**Response:** Admit.

30. It was rush hour. Exhibit C, Sorokosz, pages 72-73.

**Response:** Admit.

31. Teenagers were outside going to school. Exhibit C, Sorokosz, page 73.

**Response:** Admit.

32. Allegretti parked behind Sorokosz. Exhibit C, Sorokosz, page 74.

**Response:** Admit.

33. Allegretti approached Sorokosz and asked her whether she knew why he had stopped her, Sorokosz said she did not know. Allegretti explained why he had stopped her. Exhibit C, Sorokosz, pages 75-78.

**Response:** Admit.

34. Sorokosz recognized Allegretti to be a Chicago police officer by his uniform and star. Exhibit C, Sorokosz, pages 76-77.

**Response:** Admit.

35. Allegretti asked Sorokosz for her driver's license and insurance card. Exhibit C, Sorokosz, page 79.

**Response:** Admit.

36. Sorokosz handed Allegretti her insurance card but she did not have her driver's license because she was driving on a previously issued ticket. Exhibit C, Sorokosz, page 80.

**Response:** Admit.

37. Allegretti asked for the previously issued ticket but Sorokosz did not have it. Exhibit C, Sorokosz, page 80.

**Response:** Admit.

38. Allegretti told Sorokosz she was supposed to carry the ticket with her because her license could be suspended if she was stopped. Exhibit C, Sorokosz, pages 82-83.

**Response:** Admit that among other things, Allegretti told Sorokosz she was supposed to carry the ticket with her and that her license could be suspended. Deny to the extent that the statement mischaracterizes the statements made by Allegretti at that time. *Def.'s Exhibit C at 82*

(Allegretti told Sorokosz that she could get into big trouble if she did not have the tickets with her, that her driver's license could be suspended, and he asked her if she wanted another ticket), 85 (Allegretti told her that if she got another ticket her driver's license would be suspended).

39. Allegretti told Sorokosz he would have to give her another ticket. Exhibit C, Sorokosz, page 82.

**Response:** Admit.

40. Allegretti asked Sorokosz if she wanted another ticket. Sorokosz said, "No." Exhibit C, Sorokosz, pages 82-83.

**Response:** Admit.

41. Allegretti said something like, "What are you going to do for me to not get the ticket?" Exhibit C, Sorokosz, page 83.

**Response:** Admit.

42. Sorokosz promised she would never turn down that street again, but Allegretti said that was not what he was talking about. Exhibit C, Sorokosz, page 83.

**Response:** Admit.

43. Allegretti told Sorokosz he wanted her to show him "what I have got under my sweater." Exhibit C, Sorokosz, page 83-84.

**Response:** Admit.

44. Allegretti was looking at Sorokosz' breasts. Exhibit C, Sorokosz, page 84.

**Response:** Admit.

45. Sorokosz then pulled her clothing (sweater, shirt and bra) above her breasts. Exhibit C, Sorokosz, pages 84-85.

**Response:** Admit that she pulled her clothing up to expose her breasts. Deny to the extent that the statement excludes that fact that Sorokosz first asked for further clarification and that Allegretti told her to "show me your boobs." *Def.'s Exhibit C at 84.*

46. Sorokosz thought she had to do what Allegretti wanted so her license would not be suspended. Exhibit C, Sorokosz, page 85.

**Response:** Admit.

47. Sorokosz asked for her insurance card back. Exhibit C, Sorokosz, page 87.

**Response:** Admit.

48. Allegretti told Sorokosz to unzip her pants and show him what she had. Exhibit C, Sorokosz, page 87.

**Response:** Admit.

49. She saw kids walking toward her but she complied by unzipping her pants and showing her pubic area. Exhibit C, Sorokosz, pages 87-89.

**Response:** Admit.

50. Allegretti said "Start touching yourself." Exhibit C, Sorokosz, page 89.

**Response:** Admit that Allegretti said words to the effect of "start touching yourself" or "show me how you touch yourself." *Def.'s Exhibit C at 89.*

51. Sorokosz put her hands on her breasts. Exhibit C, Sorokosz, pages 89-90.

**Response:** Admit.

52. Allegretti said "Wait." He looked everywhere and said, "Follow me." Exhibit C, Sorokosz, page 90.

**Response:** Admit.

53. Sorokosz followed Allegretti, but when he drove into an alley, she stopped and beeped at him, Allegretti backed up and stopped his car. Sorokosz dialed 911 on her cell phone. Exhibit C, Sorokosz, pages 89-97.

**Response:** Admit.

54. Allegretti walked to Sorokosz car and asked her why she had stopped following him. Sorokosz told him she did not want to do these acts anymore and that he could just go ahead and give her a ticket. Allegretti threw Sorokosz' insurance card into her car and said "Get out of here" and left. Exhibit C, Sorokosz, pages 97-99.



**Response:** Admit.

55. After Allegretti left, Sorokosz started talking to the 911 operator and telling her what happened. Exhibit C, Sorokosz, page 103.

**Response:** Admit.

56. The 911 operator asked her if they could meet her somewhere but Sorokosz needed to pick up the children she babysat and take them to school. She decided to meet them at the school. A policeman and policewoman met her and asked her to follow them to the police station. Exhibit C, Sorokosz, pages 104-107.

**Response:** Admit.

57. Two women in plainclothes approached and she followed them to the 18<sup>th</sup> District. Exhibit C, Sorokosz, page 103.

**Response:** Admit.

58. At the 18<sup>th</sup> District, Sorokosz told the two women officers the story that she testified to at her deposition. Exhibit C, Sorokosz, page 109.

**Response:** Admit.

59. Afterwards, Sorokosz was taken by the two police officers to a larger station, probably Police Headquarters. Sorokosz was shown several photographs and she identified Allegretti. Exhibit C, Sorokosz, page 116-117.

**Response:** Admit.

60. Then, Sorokosz was asked to make a statement, which she did, and which she signed. Exhibit C, Sorokosz, page 114.

**Response:** Admit.

### **III. CITY'S POLICYMAKER**

61. For purposes of section 1983 municipal liability, the City Council of the City of Chicago is the final policymaker. *Auriemma v. Rice*, 957 F.2d 397, 399 (7<sup>th</sup> Cir. 1992).

**Response:** Admit.

62. The Superintendent of Police, as chief executive officer of the Department, and pursuant to authority delegated to him by ordinance, elaborates and makes specific the City's express policies through the issuance of department directives. Exhibit D, Chicago Municipal

Code, § 2-84-040 (Superintendent to have full authority to administer the department in a manner consistent with the ordinances of the city, the laws of the state and the rules and regulations of the police board).

**Response:** Admit.

63. The Committee on Police and Fire of the City Council has jurisdiction over all matters relating to the Police Department. Exhibit E, Rules of Order and Procedure of the City Council, City of Chicago, for Years 2007-2011.

**Response:** Admit.

64. At all times relevant to the Amended Complaint, Alderman Isaac Carothers was the chairman of the Police and Fire Committee.

#### **IV. CITY'S EXPRESS POLICIES**

65. It is the express policy of the City of Chicago that its police officers are to obey all laws as well as all Department rules and regulations. Exhibit D, Chicago Municipal Code §2-84-220 (members of the police force to devote their time and attention to discharge of duties of their stations "according to the laws of the state and ordinances of the city and rules and regulations of the department,,"); §2-84-280 (member of the police force who neglects to perform any duty when such neglect tends to hinder or obstruct the enforcement of law or ordinance or efficiency of police force is subject to discharge); §2-84-290 (member of police force who neglects or refuses to perform any duty required by ordinance or rules and regulations of police force, or who in discharge of official duties is guilty of any willful wrong or injustice, is subject to fine in addition to any other penalty imposed by law); Exhibit F, Chicago Police Department Rules and Regulations, Art. IV, p. 10 (all members of department must know and conform to rules, regulations and directives of the department); Exhibit F, pp. 13-14 (sworn members are must obey all laws, maintain a courteous and respectful attitude toward all persons, and know and conform to the department's policy, rules, regulations, orders and directives); Exhibit F, "Rule of Conduct 1", Art. V, p. 1 (members shall not violate any law or ordinance); Exhibit F, "Rule of Conduct 2", Art. V, pp. 1-2 (members shall not commit any conduct that would impede department's efforts to achieve its goals, including any act contrary to the stated policy or directives of the department).

**Response:** Admit.

66. The Rules of Conduct of the Chicago Police Department expressly prohibit "any conduct or action taken to use the official position for personal gain or influence." Exhibit F, "Rule of Conduct 4", Art. V, p. 2.

**Response:** Admit.

67. The express policies of the Department stated above are further elaborated and made specific by Department directives issued by the Superintendent of Police. Mistreatment of citizens will not be tolerated under any circumstances. Exhibit G, General Order 92-01; Exhibit E, "Rule of Conduct 8", Art. V., p. 2.

**Response:** Admit that the express policies of the Department stated above are further elaborated and made specific by Department directives issued by the Superintendent of Police. Deny that the mistreatment of citizens by police officers is not tolerated by the City. *See* Plaintiff's Local Rule 56.1(b)(3)(B) Statement of Additional Facts, ¶¶29, 30, 66-67.

RESPECTFULLY SUBMITTED,

/s/ Amanda Antholt

Attorneys for Plaintiff

Arthur Loevy  
Jon Loevy  
Amanda Antholt  
LOEVY & LOEVY  
312 North May Street  
Suite 100  
Chicago, IL 60607  
(312) 243-5900

**CERTIFICATE OF SERVICE**

I, Amanda Antholt, an attorney, certify that on August 15, 2007, I served this document by ECF electronic filing to counsel for all parties.

s/ Amanda Antholt